

Politics of Land Acquisition in Contemporary India

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(Contemporary political history of South Asia)

1. Land acquisition in India, past and present

Since the times when meek sheep devoured men to the present day, expropriation of farmers' lands, and the diversion of agricultural lands into use for other industries have been the most violent turmoil in the age of industrial transformation. Marxist would call this historical process as "primitive accumulation."

Right from the colonial days, the Indian state had recourse to the principle of "eminent domain" and enacted Land Acquisition Act of 1894 (LAA in short) for public acquisition of land properties. When imperial capital was shifted from Calcutta to Delhi in 1911, it was with the force of this law that Britishers built a grand new capital over the vast farmlands.

An Anglo-American legal lexicon defines "Eminent domain" as;

"Right to acquisition, public acquisition, expropriation; an entitlement and exercise thereof by a government or an entity so deemed, of forcibly acquiring the property right of other governments or private persons.¹"

In India, the right of acquisition has been exercised by the Union i.e. the Central government and the state governments. The independent India's Constitution apportions "Land" to the list of State legislative subjects, while "Property acquisition" is allotted to the list of Concurrent subjects, on which both Central and state governments can make laws. Politics of land acquisition thus straddles Union (Central) and states administration.

Although LAA has a section on Hearing of Objections (Section 5A) against state acquisition, District Collectors, the competent authority of land acquisition, have largely dismissed objections on the plea of "public purpose." Post-Independent public projects, including hydro-power reservoirs, irrigation canals, highways, and new industrial estates entailed huge scale of evictions, with no consideration to due compensation for life and property.

It wasn't until late 1980s that state action was called into question. First major protest was initiated by a movement against a dam construction over the Narmada River in central India. Narmada Bachao Andolan (NBA, Save Narmada Movement) was led by a woman social activist, Medha Patkar.

Later in the 1990s, economic liberalization policy initiated by the Indian National Congress (INC) party in 1991 boosted demand for lands not only by public entities, but also by private enterprises.

In 2006 Union and state governments launched Special Economic Zone (SEZ) program which in-

¹ Tanaka, Hideo (ed.) *Dictionary of Anglo American Law* (in Japanese), Tokyo: Tokyo University Press, 1991, pp. 292-3.

volved acquisition on much larger scale to accommodate estates for information technology, energy, infrastructure and multi-purpose projects. In the urban neighborhoods, greedy estate dealers, in collusion with the local politicians, bought at concessionary price or simply usurped large chunks of state-acquired lands which, once developed, brought them exorbitant profits.

Land Conflicts Watch (LCW), a vigilante journalists' organization reports that currently in India there are 537 disputes relating to land acquisition, involving 7,338,232 people and 2,143,119 ha of lands (21,432 km², 0.65% of total area of the country and a bit larger than *Shikoku* Island in Japan)².

LCW classifies sources of disputes into six categories; industry, infrastructure, land use, mining, power and protected areas. At the turn of the century, India apparently needed a law to enforce fair and due process for public land acquisition.

Against this backdrop, a land dispute over a car factory project of the Tata Motors Ltd. (TML) in West Bengal worked as catalyst for a new legislation.

2. A land dispute that blew up the Left-Front government in West Bengal

It all started with an announcement in June 2006 by the West Bengal government that it intended to set up TML's One Lakh (100 thousand) Rupee Small Car factory in Singur Thana (County) in Hoogly District, some 30 km NE of Calcutta city.

The then state government led by the Left Front coalition, with the Communist Party of India (Marxist) (CPI-M) being a dominant partner, had just emerged victorious in May state assembly elections. This was their seventh consecutive win since 1977. The government largely supported by rural electorate with its successful tenancy reforms and vigorous input in agricultural production, sought to reorient economic policy toward more industrialization to provide jobs and alleviate massive unemployment.

Despite the economic rationale behind the policy, decision was rather hasty. 90 per cent of the proposed 997 acres (400 ha) site was a single-crop farm land and the remaining 10 per cent was rich double-cropping field. Agitation against acquisition started in October with local general strikes and demonstrations. It was led by the Trinamul (Grass-root) Congress (TC), a splinter party from the INC and the dominant opposition in the state.

The state government through the agency of West Bengal Industrial Development Corporation (WBIDC) sped up the process and started paying compensation in December. Farmers and TC stood firm with their newly formed "Committee to Save Farm Lands (Krishi Bhumi Raksha Committee)". Rich farmers who invested in tube-wells found state compensation highly inadequate while poor agricultural workers losing jobs got no compensation. In December 2006 site was transferred to the TML, and after a suit in High Court lost in 2007, a violent phase started. The Committee resorted to physical obstruction. In return TML started removing machines and other equipment from January 2008 and finally declared withdrawal on the 3rd October 2008 (meanwhile the TML sought another location in Gujarat).

West Bengal at the same time was hit with another land dispute in the East Midnapore District. A petrochemical SEZ was planned in Nandigram Thana of the district and was fiercely opposed by the local people. In July 2007 fourteen people were fatally shot by the police and the state government had to concede their high-handedness in dealing with the SEZ turmoil.

The twin incidents of Singur and Nandigram testified to the crucial importance of land acquisition

² <http://landconflictswatch>, retrieved on Dec. 25, 2017.

in promoting industrialization, but grass-root party conflicts deeply embedded in West Bengal rural politics also aggravated the relation between state government and farmers³. In the Assembly elections held in May 2011, Left Front was defeated by the TC and 34 years of left rule in West Bengal came to an end⁴.

Lesson was obvious. Colonial and obsolete LAA had to be dismantled and (to be) replaced by a new comprehensive legislation. This awareness led to a totally remodeled land acquisition act in 2013 under the INC-led coalition called United Progressive Alliance (UPA). Before examining the details of the 2013 law, the subsequent story of the Tata Car factory is briefly narrated.

3. Narendra Modi of Gujarat intervened

Four days after the TML announced withdrawal from Singur, TML Chairman Ratan Tata and Gujarat Chief Minister Narendra Modi held a joint press conference and declared Nano factory to be relocated to Sanand in Gujarat.

Modi was then stigmatized as a Hindu communalist for his role in the anti-Muslim pogrom in the early 2002. He expected that the invitation to Tata would improve his image as a pro-business performer⁵. Factory was completed within fourteen months and the first assembled car came out in June 2010. Extraordinary was not only the Modi government's swift action but the bountiful agreement of the state government with the TML. Agreement remained out of public eyes for several years only to be disclosed four years later by investigative journalists⁶.

- Government offered one thousand acres of farmlands in Sanand (almost similar in size to the Singur factory site) with additional hundred acres for a township near Ahmedabad.
- Acquisition was announced on the 4th December 2009. Gujarat Industrial Development Corporation put the price at four times the market price which it sold TML at 3.6 million rupees per acre. Total cost for land amounted to four billion Rupees which TML was to pay in eight installments at 8 percent interest. Whereas in West Bengal, land was leased for 90 years at the annual rent of ten million rupees for the first year, with staged increase over 90 years.
- Government assured over 20 years a 95 billion Rupees loan with 0.1% interest, against TML's total investment of 20 billion Rupees. West Bengal government offered only a 2 billion Rupee soft loan. This was the most generous part of the Gujarat offer, as it offered in the case of Ford Motors, only 280 million Rupees loan with 10 % interest.

3 West Bengal rural politics is highly politicized in the sense that among 240 members of the lowest strata of representative council, i.e. Gram Panchayats in Singur Block, only 4 were independents, whereas Trinamul Congress had 147 and Communist Party of India (Marxist) had 70 members. ([http://www.wbsec.gov.in/\(S\(k4h01355jkwxa445utzspa2h\)\)/FinalResult/FinalResult_gp_2013.aspx](http://www.wbsec.gov.in/(S(k4h01355jkwxa445utzspa2h))/FinalResult/FinalResult_gp_2013.aspx))

4 The suit for recovering Singur lands continued even afterwards. In August 2016, Supreme Court of India reached a verdict that Government didn't follow the procedure for acquisition laid down in LAA and ordered lands to be returned to the owners. One of the two ruling judges declared that Government acquisition of lands for the TML could not be regarded as "public purposes" (*Kedar Nath Yadav v. Govt of West Bengal*, <https://www.legallyindia.com/supreme-court/legally-explained-why-the-sc-struck-down-the-singur-land-acquisition-and-what-it-means-via-mint-20160906-7942>).

5 Mukhopadhyay. Nilanjan, *Narendra Modi, the man, the times*, Chennai: Tanquebar Press, 2013, p. 363; Sardesai, Rajdeep, *2014 the Election that changed India*, Gurgaon: Penguin Books India, 2014, pp.32-3.

6 On Government-TML agreement, see Telegraph (Kolkata), 21 Jan/ 2009; "Lure of public money many times its investment made Tata shift plant to Gujarat", 8 Oct. 2013, <https://centreforindia.wordpress.com/2013/10/08/lure-of-free-public-money-many-times-its-investment-made-tata-shift-nano-plant-to-gujarat-not-modis-newly-created-industrial-climate/>; "Big scam with small car", 7 Aug. 2013, <https://trythofgujarat.com/big-scam-with-small-car/> (retrieved on 13 Dec. 2017).

- Preferential treatment as regards taxation, cess, electric power, water and sewerage was equally applied in TML case too.
- No commitment on jobs, although local preferential employment is a norm in Gujarat industrial policy.

With the TML coming in, Sanand has become a sort of auto-hub and such major car makers as Ford, Peugeot and Maruti started their projects in Gujarat.

Modi's dealing with the TML was much appreciated by business and industry. Consulting agencies' surveys on deregulation and "ease of doing business" in major Indian states ranked Gujarat high, especially in dealing with environment clearance and land acquisition⁷. It goes without saying that this one-size-fits-all approach to the "ease of doing business" ignores the diverse contexts of development in different states.

4. Land Acquisition Law of 2013 by UPA government

Story of the Tata factory illustrated a contrasting picture of acquisition policy and its outcome in the two states. It is tempting to think that Gujarat managed better, but the entire process in Gujarat was "voiceless" while West Bengal's alleged "failure" was due to abundant "voice." What was common in both cases was that the public acquisition regime under the colonial law (LAA) had little room for accommodating the "voice" of the farmers and landowners.

To cope with the recurrent land disputes, the UPA government enacted in 2013 an entirely new law on land acquisition, "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (LARR in short)". The word "Right" is notable, as the act was one of the "rights-based" laws the UPA government enacted between 2004 and 2014 (See Table below). On UPA's politics of rights, we shall discuss it later in the concluding part.

Table: Rights-based legislation by UPA government (2004-09, 09-14)

- The Right of Information Act 2005
- Mahatma Gandhi National Rural Employment Guarantee Act 2005
- The Right of Children to Free and Compulsory Education Act 2009
- The Right of Citizens for Time bound Delivery of Goods and Services and Redressal of their Grievances Bill 2011
- The National Food Security Act 2013
- The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013
- Lokpal and Lokayukta Act 2013

LARR has 114 sections in 13 chapters with four schedules, whereas old LAA had only fifty-odd clauses. Provisions are related to the whole process of land acquisition, beginning from consent of land owners, social impact assessment (SIA), preservation of multi-cropping or irrigated lands, procedure of acquisition, resettlement and rehabilitations, and finally to disputes settlement mechanism.

Most dissatisfying provisions for the business interests were the ones for the need of prior consent and social impact assessment. They opposed LARR, alleging that land acquisition was made practi-

⁷ *Survey of Business Regulatory Environment for Manufacturing - State Level Assessment, Vol. I, Final Report; Vol. II State Specific Findings* (Department of Industrial Policy and Promotion, DIPP Home Page, retrieved on 19 June 2015); *Best Practices to Improve the Business Environment across India*. Accenture, May 2014.

cally impossible due to these safeguards.

LARR may look too restrictive, cumbersome and time-consuming, but the practice under the old law (LAA) often entailed abuse of “public purpose”, and/or excessive acquisition over the actual need of the projects. Safeguards in LARR were designed to make executives more responsive to the rights of land-owners and make them more circumspect in exercising administrative authority.

A year after LARR was enacted, India held the 16th Parliamentary (Lower House) elections in early 2014. Opposition Bharatiya Janata Party (BJP) led by no other (person) than Narendra Modi, who invited TML car factory as the Chief Minister of Gujarat, won a landslide victory over the UPA, with strong backing from the business interests.

5. Amendment proposal of 2013 Land Acquisition Law by Modi government

The Modi government set to amend LARR immediately after assuming office. Though BJP had comfortable majority in the Lower House, INC kept majority in the Upper House. On the last day of 2014, the Modi government issued a Presidential Ordinance to amend LARR, bypassing the parliament.

The core of the amendment was to exempt safeguard provisions of consent of land owners, social impact assessment and preservation of multi-cropped and irrigated agricultural lands, in case acquisition was necessitated for five specified purposes. Exemptions are;

- a) national security, defence, any area related with defence production
- b) rural infrastructure including electrification
- c) affordable housing, housing for the poor
- d) industrial corridors by government or related agencies, area within one kilometer of both sides of their (corridors’) dedicated railways and roads
- e) Public Private Partnership projects (where land rights rest on the government)

Amendment by the government incidentally kept provisions for price of lands, resettlement or rehabilitation untouched. Core concern of the government and business was with the safeguards of consent and social impact assessment. Making “doing business” easier had been the hallmark of the Modi administration since his days as Gujarat Chief Minister. With Modi crowned in New Delhi, the “Gujarat model” became a national model every state had to emulate.

“With these amendments, the objectives of the 2013 law which was to limit the mechanism of forced acquisition has been undermined significantly.With this one step the ruling party (BJP) had returned us to the days of the British enacted law where our citizens enjoyed no say in their development ⁸”

But the discontents of farmers forced the NDA government to retreat. Farmers’ bodies claimed that the five exemptions were so vaguely defined as to allow arbitrary interpretations. In March 2015, Modi had to let the presidential ordinance lapse and in the following parliamentary session, presented a bill with almost the same content. But this bill is yet to get parliamentary sanction.

After an unsuccessful attempt to amend LARR in the Parliament, the NDA government started

8 Ramesh, Jairam and Muhammad Ali Khan, *Legislating for Justice, the making of the 2013 Land Acquisition Law*, New Delhi Oxford University Press, 2015, p. 128.

encouraging state governments to amend LARR exactly in the same way as it tried to do (note that states have also power to amend “land” laws). BJP-ruled states like Gujarat, Haryana, Goa and Rajasthan quickly responded and modified respective land acquisition laws along the lines of the central amendment.

Conclusion

The politics of land acquisition so far narrated centered around two interrelated themes; states’ varied experiences on land acquisition and contrasting approach toward law reforms on land acquisition under two different political combinations; one led by INC and another by BJP. By way of conclusion, we will locate the narrative in a wider context of political economy in contemporary India.

Land, labour and Farmers’ discontent

First of all, farmers’ dissent has to be understood in connection with specific features of industrial transformation in India since the 1990s. Most characteristically the decline of agriculture in national economy has not been accompanied with corresponding decline in rural work force. Seventy percent of the total population still remain in rural areas, while agriculture’s share in GDP decreased from 30% to 18% after two decades of liberalization. On the other hand, growth in the secondary and tertiary sectors has not been so vigorous nor in a way as to absorb fresh work force from the rural areas in large quantity. We do not go into details, as the matter needs deeper analysis, but, dim prospect for non-agricultural jobs is certainly a factor for farmers’ unwillingness to part with their fragmented and uneconomic holdings. Further, the farmers from experience for the last decades learned that the land price soared after acquisition and they ended up feeling deprived by the low rate of compensation.

Politics of Rights, a mere political expediency?

Neo-liberal reforms in India started in early 1990s under the INC rule, and subsequently NDA and UPA, two coalitions led by BJP and INC respectively have framed their policy within the neo-liberal regime. We have witnessed a sort of “competitive neo-liberalism” in Indian politics. Apparently the case of INC’s politics of rights and land acquisition law reform does not fit in this pattern, as the two coalitions substantially differ in their outlook.

Our case on land acquisition law reforms poses a question if the difference is only of political expediency, or if even under the neo-liberal policy regime, space for policy divergence could grow under certain circumstances, and finally if the rights-based approach offers an alternative to the neo-liberal policy regime.

Further exploration on the land acquisition in contemporary India along these lines will certainly enrich our studies on Indian political economy.